

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-268-C - ORDER NO. 1999-827
NOVEMBER 22, 1999

IN RE: Petition of Myrtle Beach Telephone, L.L.C.)	ORDER DENYING
for Arbitration Pursuant to Section 252(b) of)	PETITION FOR
the Telecommunications Act of 1996 to)	REHEARING AND
Establish an Interconnection Agreement with)	RECONSIDERATION
Horry Telephone Cooperative, Inc.)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Petition for Rehearing or Reconsideration filed by Myrtle Beach Telephone, L.L.C. ("MBT"). By its Petition, MBT requests rehearing or reconsideration of Commission Order No. 1999-714 in which the Commission rendered its decision on the arbitration proceeding between MBT and Horry Telephone Cooperative, Inc. ("Horry"). In its Petition, MBT alleges errors by the in the Commission's decision on the issues of the arbitration proceeding.

Upon consideration of this matter, the Commission is mindful that this matter was instituted by MBT filing a Petition for Arbitration on June 17, 1999, when MBT and Horry were unable to reach an agreement on interconnection despite participating in good faith negotiations over an extended period of time. The Petition for Arbitration and the resulting proceedings were before the Commission pursuant to Section 252(b) of the Telecommunications Act of 1996 ("1996 Act"). As such, the 1996 Act and specifically

Section 252(b) of the 1996 Act are the controlling law under which the Commission much decide the matters set forth in the Petition for Arbitration.

Included in Section 252(b) of the Act are certain time frames which are established for actions by the parties and by the Commission. With regard to action by the Commission, Section 252(b)(4)(C) provides that

The State commission shall resolve each issue set forth in the Petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

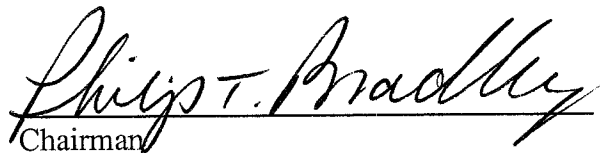
Thus the Commission has a nine month time limit in which to conclude a Section 252 arbitration proceeding.

MBT formally requested commencement of negotiations with Horry under Section 251 of the 1996 Act and such request was deemed effective on January 11, 1999. *See*, Order No. 1999-714 (“Order on Arbitration”), October 11, 1999. The Petition for Arbitration was filed on June 17, 1999, and thereafter a hearing was held on September 20, 1999. Following the hearing, the parties submitted proposed orders for the Commission’s consideration. On October 11, 1999, the Commission issued its final order ruling on the open issues then remaining before it. Pursuant to Section 252(b)(4)(C) of the 1996 Act, the Commission had 9 months, or until October 11, 1999, in which to render a decision on the open issues in the arbitration proceeding. The Commission complied with this mandate of the 1996 Act by issuing Order No. 1999-714 entitled “Order on Arbitration” on October 11, 1999.

Being mindful of the statutorily imposed 9 month time limit contained in Section 252(b)(4)(C) of the 1996 Act, the Commission finds that MBT's Petition for Rehearing or Reconsideration is untimely and falls outside the purview of the Commission. As MBT's Petition for Rehearing and Reconsideration was filed outside the time frame for arbitration set forth in the 1996 Act which requires the Commission to "conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received a request" for interconnection under section 252 of the 1996 Act, the Commission concludes that it cannot entertain MBT's Petition for Rehearing and Reconsideration requesting the Commission to either grant a new hearing or change rulings on issues from Order No. 1999-714. Therefore, the Commission denies MBT's Petition for Rehearing and Reconsideration.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)